

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Accusation
Against:**

Roy Barry Rubin, M.D.

**Physician's and Surgeon's
Certificate No. A 24655**

Respondent

Case No. 800-2016-021375

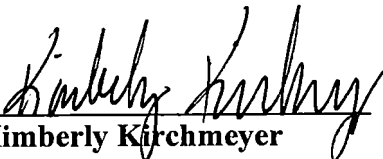
DECISION

**The attached Stipulated Surrender of License and Order is hereby adopted
as the Decision and Order of the Medical Board of California, Department of
Consumer Affairs, State of California.**

This Decision shall become effective at 5:00 p.m. on March 22, 2019.

IT IS SO ORDERED March 15, 2019.

MEDICAL BOARD OF CALIFORNIA

By: 
**Kimberly Kirchmeyer
Executive Director**

1 XAVIER BECERRA
Attorney General of California
2 STEVEN D. MUNI
Supervising Deputy Attorney General
3 JANNSEN TAN
Deputy Attorney General
4 State Bar No. 237826
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8 *Attorneys for Complainant*

9
10 **BEFORE THE**
11 **MEDICAL BOARD OF CALIFORNIA**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
13 **STATE OF CALIFORNIA**

14 In the Matter of the Accusation Against:

15 **ROY BARRY RUBIN, M.D.**
16 **9 AMHERST PL**
WOODLAND, CA
17 **95695**

18 **Physician's and Surgeon's Certificate No.**
No. A 24655

19 Respondent.

Case No. 800-2016-021375

OAH No. 800-2016-021375

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

20
21
22 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
23 entitled proceedings that the following matters are true:

24 **PARTIES**

25 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
26 of California (Board). She brought this action solely in her official capacity and is represented in
27 this matter by Xavier Becerra, Attorney General of the State of California, by Jannsen Tan,
28 Deputy Attorney General.

2. Roy Barry Rubin, M.D. (Respondent) is represented in this proceeding by his attorney:

Sarah Christine Gosling, Esq.

Schuering Zimmerman & Doyle LLP,

400 University Ave, Sacramento, CA 95825

(916) 459-2128

3. On or about March 21, 1972, the Board issued Physician's and Surgeon's Certificate No. No. A 24655 to Roy Barry Rubin, M.D. (Respondent). The Physician's and Surgeon's Certificate No. expired on May 31, 1917, and has not been renewed.

JURISDICTION

4. Accusation No. 800-2016-021375 was filed before the (Board), and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on December 21, 2018. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 800-2016-021375 is attached as Exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2016-021375. Respondent also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License and Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Having the benefit of counsel, Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

1 CULPABILITY

2 8. Respondent admits the truth of each and every charge and allegation in Accusation
3 No. 800-2016-021375, agrees that cause exists for discipline and hereby surrenders his
4 Physician's and Surgeon's Certificate No. No. A 24655 for the Board's formal acceptance.

5 9. Respondent understands that by signing this stipulation he enables the Board to issue
6 an order accepting the surrender of his Physician's and Surgeon's Certificate without further
7 process. Respondent agrees to surrender his license based on his current physical condition
8 which inhibits his ability to continue to practice medicine.

9 RESERVATION

10 10. The admissions made by Respondent herein are only for the purposes of this
11 proceeding, or any other proceedings in which the Medical Board of California or other
12 professional licensing agency is involved, and shall not be admissible in any other criminal or
13 civil proceeding. Respondent agrees to surrender his license because, subsequent to his
14 retirement, he developed physical limitations due to illness which prevent him from returning to
15 the practice of medicine.

16 CONTINGENCY

17 11. Business and Professions Code section 2224, subdivision (b), provides, in pertinent
18 part, that the Medical Board "shall delegate to its executive director the authority to adopt a
19 stipulation for surrender of a license."

20 12. This Stipulated Surrender of License and Disciplinary Order shall be subject to
21 approval of the Executive Director on behalf of the Medical Board. The parties agree that this
22 Stipulated Surrender of License and Disciplinary Order shall be submitted to the Executive
23 Director for her consideration in the above-entitled matter and, further, that the Executive
24 Director shall have a reasonable period of time in which to consider and act on this Stipulated
25 Surrender of License and Disciplinary Order after receiving it. By signing this stipulation,
26 Respondent fully understands and agrees that he may not withdraw his agreement or seek to
27 rescind this stipulation prior to the time the Executive Director, on behalf of the Medical Board,
28 considers and acts upon it.

13. The parties agree that this Stipulated Surrender of License and Disciplinary Order shall be null and void and not binding upon the parties unless approved and adopted by the Executive Director on behalf of the Board, except for this paragraph, which shall remain in full force and effect. Respondent fully understands and agrees that in deciding whether or not to approve and adopt this Stipulated Surrender of License and Disciplinary Order, the Executive Director and/or the Board may receive oral and written communications from its staff and/or the Attorney General's Office. Communications pursuant to this paragraph shall not disqualify the Executive Director, the Board, any member thereof, and/or any other person from future participation in this or any other matter affecting or involving Respondent. In the event that the Executive Director on behalf of the Board does not, in her discretion, approve and adopt this Stipulated Surrender of License and Disciplinary Order, with the exception of this paragraph, it shall not become effective, shall be of no evidentiary value whatsoever, and shall not be relied upon or introduced in any disciplinary action by either party hereto. Respondent further agrees that should this Stipulated Surrender of License and Disciplinary Order be rejected for any reason by the Executive Director on behalf of the Board, Respondent will assert no claim that the Executive Director, the Board, or any member thereof, was prejudiced by its/his/her review, discussion and/or consideration of this Stipulated Surrender of License and Disciplinary Order or of any matter or matters related hereto.

ADDITIONAL PROVISIONS

14. This Stipulated Surrender of License and Disciplinary Order is intended by the parties herein to be an integrated writing representing the complete, final and exclusive embodiment of the agreements of the parties in the above-entitled matter.

16. The parties agree that copies of this Stipulated Surrender of License and Disciplinary Order, including copies of the signatures of the parties, may be used in lieu of original documents and signatures and, further, that such copies and signatures shall have the same force and effect as originals.

17. In consideration of the foregoing admissions and stipulations, the parties agree the Executive Director of the Medical Board may, without further notice to or opportunity to be heard by Respondent, issue and enter the following Disciplinary Order on behalf of the Board:

ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 24655, issued to Respondent Roy Barry Rubin, M.D., is surrendered and accepted by the Medical Board of California.

1. The surrender of Respondent's Physician's and Surgeon's Certificate No. and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Medical Board of California.

2. Respondent shall lose all rights and privileges as a Physician and Surgeon in California as of the effective date of the Board's Decision and Order.

3. Respondent shall cause to be delivered to the Board his pocket license and, if one was issued, his wall certificate on or before the effective date of the Decision and Order.

4. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked or surrendered license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation No. 800-2016-021375 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

5. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation No. 800-2016-021375 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

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1 ACCEPTANCE

2 I have carefully read the above Stipulated Surrender of License and Order and have fully
3 discussed it with my attorney. I understand the stipulation and the effect it will have on my
4 Physician's and Surgeon's Certificate No. A 2465. I enter into this Stipulated Surrender of License
5 and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and
6 Order of the Medical Board of California.

7
8 DATED: February 25 2019 Roy Barry Rubin
9 ROY BARRY RUBIN, M.D.
Respondent

10 I have read and fully discussed with Respondent Roy Barry Rubin, M.D. the terms and
11 conditions and other matters contained in this Stipulated Surrender of License and Order. I
12 approve its form and content.

13 DATED: 2/26/19 Sarah C. Gieding
14 Sarah C. Gieding
Attorney for Respondent

15 ENDORSEMENT

16
17 The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted
18 for consideration by the Medical Board of California of the Department of Consumer Affairs.

19 Dated: 3/5/19

Respectfully submitted,

20 XAVIER BECERRA
Attorney General of California
21 ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General

22
23 JANNSEN TAN
24 Deputy Attorney General
25 Attorneys for Complainant
26

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Exhibit A

Accusation No. 800-2016-021375

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7 *Attorneys for Complainant*

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9 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 800-2016-021375

13 **ROY BARRY RUBIN, M.D.**
14 **9 Amherst Pl**
Woodland, CA 95695

A C C U S A T I O N

15 **Physician's and Surgeon's Certificate**
16 **No. A 24655,**

17 **Respondent.**

18
19 **Complainant alleges:**

20 **PARTIES**

21 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official
22 capacity as the Executive Director of the Medical Board of California, Department of Consumer
23 Affairs (Board).

24 2. On or about March 21, 1972, the Medical Board issued Physician's and Surgeon's
25 Certificate No. A 24655 to Roy Barry Rubin, M.D. (Respondent). The Physician's and Surgeon's
26 Certificate expired on May 31, 2017, and has not been renewed.

27 ///

28 ///

1 **JURISDICTION**

2 3. This Accusation is brought before the Board, under the authority of the following
3 laws. All section references are to the Business and Professions Code (Code) unless otherwise
4 indicated.

5 4. Section 822 of the Code states:

6 "If a licensing agency determines that its licensee's ability to practice his or her
7 profession safely is impaired because the licensee is mentally ill, or physically ill affecting
8 competency, the licensing agency may take action by any one of the following methods:

9 "(a) Revoking the licensee's certificate or license.

10 "(b) Suspending the licensee's right to practice.

11 "(c) Placing the licensee on probation.

12 "(d) Taking such other action in relation to the licensee as the licensing agency in its
13 discretion deems proper.

14 "The licensing section shall not reinstate a revoked or suspended certificate or license until
15 it has received competent evidence of the absence or control of the condition which caused its
16 action and until it is satisfied that with due regard for the public health and safety the person's
17 right to practice his or her profession may be safely reinstated."

18 **CAUSE FOR RESTRICTIONS**

19 **(Physical Illness and/or Mental Condition Affecting Ability to Safely Practice Medicine)**

20 5. Respondent's Physician's and Surgeon's Certificate No. A 24655 is subject to action
21 under section 822 of the Code in that he has a physical and/or mental condition affecting his
22 ability to safely practice medicine, as more particularly alleged hereinafter:

23 6. On or about March 15, 2016, Woodland Memorial Hospital filed an 805 report¹ with
24 the Board stating that "after 43 years of commendable service, Respondent was resigning his
25 medical privileges." The report added that "No formal inquiries, findings, or conclusions had
26

27
28 ¹ Business and Professions Code Section 805 requires under health care facilities to report
to the Board, resignations, and other limitations to staff privileges or membership.

1 been undertaken or reached." The Board had not received any complaints from patients with
2 Respondent's care and treatment during his tenure with Woodland Memorial Hospital.

3 7. On or about August 23, 2018, Respondent voluntarily appeared before Board
4 representatives for an interview. During the interview, he expressed his desire to retire from the
5 practice of medicine. He stated that he suffers from shingles and other physical limitations that
6 prevent him from practicing medicine safely. He stated that his physical limitations began more
7 than a year after his retirement from Woodland Memorial Hospital.

8 **PRAYER**

9 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
10 and that following the hearing, the Medical Board of California issue a decision:


11 1. Revoking or suspending Physician's and Surgeon's Certificate No. A 24655, issued
12 to Roy Barry Rubin, M.D.;

13 2. Revoking, suspending or denying approval of Roy Barry Rubin, M.D.'s authority to
14 supervise physician assistants and advanced practice nurses;

15 3. Ordering Roy Barry Rubin, M.D., if placed on probation, to pay the Board the costs
16 of probation monitoring; and

17 4. Taking such other and further action as deemed necessary and proper.

18
19 DATED:
20 December 21, 2018


KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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